

COPY

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9 Attorneys for Plaintiff and the Class

10 (Other counsel listed on signature page)

11 **UNITED STATES DISTRICT COURT**
 12 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

13 JEREMY SMITH, Individually and On Behalf of
 14 All Others Similarly Situated,

15 Plaintiff,

16 vs.

17 AMERICAN CAREER COLLEGE, INC.,

18 Defendant.

Case No.: **SACV13-01394 JST (JPRx)**

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

19 Plaintiff, Jeremy Smith ("Plaintiff"), brings this action on behalf of himself and all other
 20 persons similarly situated, against Defendant American Career College ("ACC" or "Defendant"),
 21 and, in support thereof, avers as follows upon information and belief, except as to allegations
 22 specifically pertaining to Plaintiff, which are made upon knowledge.

23 **I. NATURE OF ACTION**

24 1. Plaintiff brings this action individually and on behalf of a proposed class (the
 25 "Class") as more fully defined below, for the benefit and protection of all persons situated in
 26 California who place calls to ACC that secretly have been, and are, recorded. Plaintiff brings this
 27 class action on behalf of himself and all other similarly situated persons to obtain statutory
 28 penalties, as well as injunctive and other relief.

FILED**BY FAX**

2013 SEP -9 PM 12:17
 CLERK U.S. DISTRICT COURT
 CENTRAL DISTRICT OF CALIF.
 SAN FRANCISCO

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II. PARTIES

2. Plaintiff is a resident of Los Angeles County, California, and is a citizen of California.

3. Defendant is a California corporation with its principal place of business in Irvine, California. ACC, therefore, is a citizen of California.

III. JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(d)(2) because the matter in controversy, upon information and belief, exceeds \$5,000,000, exclusive of interest and costs, and this is a class action in which Class members and Defendant are citizens of different states.

5. This Court has personal jurisdiction over Defendant because Defendant is authorized to do business, and currently does business, in this state.

6. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391, because Plaintiff is a resident of this district, Defendant engages in substantial business throughout this district, and many of the acts complained of herein took place within, or were aimed at citizens in this district.

IV. FACTUAL ALLEGATIONS

7. In May, 2013, while located in California, Plaintiff called ACC at (877) 357-8862 from a wireless telephone in California. Plaintiff spoke to an employee of Defendant who identified himself as "Jose" to inquire about the healthcare program offered at Defendant's Los Angeles campus.

8. Plaintiff was not aware that the call was being recorded. Defendant did not, at any point during the telephone conversation between Plaintiff and Defendant's customer service representative, advise Plaintiff that the call was being recorded. Plaintiff did not give either express or implied consent to the recording.

9. After completing his call, Plaintiff learned that Defendant records *all* incoming telephone calls but does not disclose this to callers.

1 10. Plaintiff expected that his telephone call would be private (*i.e.*, neither recorded
2 nor monitored) due to Defendant's failure to disclose any recording or monitoring.

3 11. Plaintiff's subjective expectation of privacy was objectively reasonable based
4 upon prevailing societal norms. Indeed, one poll showed that 73% of Americans believe that it is
5 "extremely important" that conversations never be recorded or monitored without the consent of
6 all parties. *See* Harris Poll #17, March 19, 2003; *see also* Katz, Privacy and Information
7 Technology, Public Opinion Quarterly 54, no. 1 (1990), at 125-143 (concluding that privacy of
8 telephone calls is very important to most Americans and that the idea of secretly recording or
9 monitoring of telephone calls is upsetting to a majority of people).

10 V. CLASS ACTION ALLEGATIONS

11 12. Plaintiff brings this class action for damages and other monetary relief on behalf
12 of the following class:

13 "All persons who are citizens of any State and who placed calls to
14 Defendant from California whose telephone conversations with
15 Defendant were intentionally recorded without disclosure by
16 Defendant at any time during the statute of limitations period
through the date of final judgment in this action." (the "Class").

17 13. Excluded from the Class are governmental entities, Defendant, any entity in which
18 Defendant has a controlling interest, and Defendant's officers, directors, affiliates, legal
19 representatives, employees, co-conspirators, successors, subsidiaries, and assigns, and individuals
20 bound by any prior settlement. Also excluded from the Class is any judge, justice, or judicial
21 officer presiding over this matter and the members of their immediate families and judicial staff.

22 14. The proposed Class is so numerous that individual joinder of all its members is
23 impracticable. Due to the nature of the trade and commerce involved, Plaintiff believes that the
24 total number of Class members is at least in the tens of thousands and members of the Class are
25 numerous and geographically dispersed across California and across the United States. While the
26 exact number and identities of the Class members are unknown at this time, such information can
27 be ascertained through appropriate investigation and discovery. The disposition of the claims of
28

1 the Class members in a single class action will provide substantial benefits to all parties and to
2 the Court.

3 15. There is a well-defined community of interest in the questions of law and fact
4 involved affecting the plaintiff class and these common questions predominate over any
5 questions that may affect individual Class members. Common questions of fact and law include,
6 but are not limited to, the following:

- 7 (a) Whether Defendant intentionally recorded telephone calls;
- 8 (b) Whether Defendant continues to record calls;
- 9 (c) Whether Defendant disclosed/discloses its intentional recording of
10 telephone communications; and
- 11 (d) Whether Defendant's conduct constitutes a violation of California
12 Penal Code sections 632 and/or 632.7.

13 16. Plaintiff's claims are typical of the claims of the members of the Class. Plaintiff
14 and all members of the Class have been subjected to Defendant's common course of unlawful
15 conduct as complained of herein and are entitled to the same statutory damages based on
16 Defendant's wrongful conduct as alleged herein.

17 17. Plaintiff will fairly and adequately represent and protect the interests of the Class.
18 Plaintiff has retained counsel with substantial experience in handling complex class action
19 litigation. Plaintiff and his counsel are committed to vigorously prosecuting this action on behalf
20 of the Class and have the financial resources to do so.

21 18. A class action is superior to all other available methods for the fair and efficient
22 adjudication of the present controversy. Individual joinder of all members of the class is
23 impracticable. Even if individual class members had the resources to pursue individual litigation,
24 it would be unduly burdensome to the courts in which the individual litigation would proceed.
25 The conduct of this action as a class action conserves the resources of the parties and of the
26 judicial system and protects the rights of the class members. Furthermore, for many, if not most,
27 a class action is the only feasible mechanism that allows an opportunity for legal redress and
28 justice.

FIRST CAUSE OF ACTION

Penal Code § 630, et seq.

19. Plaintiff incorporates by this reference the allegations contained in the preceding paragraphs above as if fully set forth herein.

20. As part of the California Invasion of Privacy Act, the Legislature enacted section 632 of the California Penal Code in 1967 to address the growing concern that “advances in science and technology have led to the development of new devices and techniques for the purpose of eavesdropping upon private communications and that the invasion of privacy resulting from the continual and increasing use of such devices and techniques has created a serious threat to the free exercise of personal liberties and cannot be tolerated in a free and civilized society.” Cal. Penal Code § 630.

21. Section 632 prohibits the non-consensual recording, monitoring, and/or eavesdropping upon confidential telephone communications by means of any electronic amplifying or recording device, including a wiretap. “Intentional” within the context of section 632 merely requires that a defendant intend that the confidential communication be recorded, monitored, and/or eavesdropped upon. *See People v. Superior Court of Los Angeles County*, 70 Cal. 2d 123, 133 (1969).

22. Plaintiff is informed and believes, and thereon alleges that Defendant knowingly violated Cal. Pen Code § 632 by habitually, and making a practice of, routinely recording confidential communications of its customers and potential customers.

23. Plaintiff is informed and believes, and thereon alleges that the foregoing recording, monitoring, and/or eavesdropping on said confidential communications without consent via recording device, including but not limited to wiretapping, constitutes a violation of California Penal Code sections 631(a) and 632.6(a).

24. Based on the foregoing violations, Plaintiff and members of the Class are entitled to and seek statutory damages. Plaintiff does not allege common law violation of privacy nor does Plaintiff seek actual damages other than statutory damages.

1 25. Plaintiff and the Class additionally seek attorneys' fees pursuant to section 1021.5
2 of the California Code of Civil Procedure, or any other applicable statute, as this action enforces
3 an important right affecting the public's interest.

4 **SECOND CAUSE OF ACTION**

5 **Penal Code § 632.7**

6 26. Plaintiff incorporates by this reference the allegations contained in the preceding
7 paragraphs above as if fully set forth herein.

8 27. Section 632.7 prohibits the intentional, non-consensual recording of any telephone
9 communication without the consent of all parties where at least one party to the conversation is
10 using either a cordless or cellular telephone. No expectation of confidentiality or privacy is
11 required, nor is any other wrongful or surreptitious intent required – only that the defendant
12 intended to record the communication.

13 28. Plaintiff is informed and believes, and thereon alleges that Defendant knowingly
14 violated Cal. Pen Code § 632.7 by intentionally recording calls with persons using cordless or
15 cellular telephones, including Plaintiff.

16 29. Based on the foregoing violations, Plaintiff and the Class are entitled to and seek
17 the statutory remedies provided in section 637.2 of the California Penal Code. Plaintiff does not
18 allege common law violation of privacy nor does Plaintiff seek actual damages other than
19 statutory damages.

20 30. Plaintiff and the Class additionally seek attorneys' fees pursuant to section 1021.5
21 of the California Code of Civil Procedure, or any other applicable statute, as this action enforces
22 an important right affecting the public's interest.

23 **PRAYER FOR RELIEF**

24 WHEREFORE, Plaintiff, individually and on behalf of the Class, prays for relief and
25 judgment as follows:

26 1. For an Order appointing Plaintiff as the representative plaintiff of the Class and
27 his counsel as Class counsel;

1 2. For preliminary and permanent injunctive relief enjoining Defendant, its agents,
2 servants and employees, and all persons acting in concert with them, from engaging in this illegal
3 practice;

4 3. For certification of the putative class;

5 4. For statutory damages;

6 5. For attorneys' fees and expenses pursuant to all applicable laws including, without
7 limitation, Code of Civil Procedure §1021.5 and the common law private attorney general
8 doctrine;

9 6. For costs of suit; and

10 7. For such other and further relief as the Court deems just and proper.

11 **DEMAND FOR JURY TRIAL**

12 Plaintiff hereby demands a trial by jury of all claims and causes of action so triable in this
13 lawsuit.

14 Dated: September 6, 2013

MAURIELLO LAW FIRM, APC

15 By: 
16

17 Thomas D. Mauriello (SBN 144811)
18 1181 Puerta Del Sol, Suite 120
19 San Clemente, CA 92673
20 Tel: 949/542-3555
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 JAMES C. SHAH (SBN 260435)
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 Media, PA 19063
 Tel: 610/891-9880
 Fax: 610-891-9883
 jshah@sfnslaw.com

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

NOTICE OF ASSIGNMENT TO UNITED STATES JUDGES

This case has been assigned to District Judge Josephine Staton Tucker and the assigned Magistrate Judge is Jean P. Rosenbluth.

The case number on all documents filed with the Court should read as follows:

SACV13-01394 JST (JPRx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge.

Clerk, U. S. District Court

September 9, 2013

Date

By A. Gonzalez
Deputy Clerk

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☐

Western Division
312 N. Spring Street, G-8
Los Angeles, CA 90012

☒

Southern Division
411 West Fourth St., Ste 1053
Santa Ana, CA 92701

☐

Eastern Division
3470 Twelfth Street, Room 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

COPY

Name & Address:

THOMAS D. MAURIELLO (SBN 144811)
 MAURIELLO LAW FIRM, APC
 1181 Puerta Del Sol, Ste. 120, San Clemente, CA
 92673 Tel: 949/542-3555 Fax: 949/606-9690
 (Attorneys for Plaintiff)

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

JEREMY SMITH, Individually and On Behalf of All
 Others Similarly Situated,

PLAINTIFF(S)

v.

AMERICAN CAREER COLLEGE, INC.,

DEFENDANT(S).

CASE NUMBER

SACV13-01394 JST (JPRx)

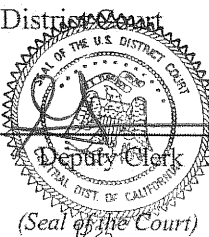
SUMMONS

TO: DEFENDANT(S):

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ _____ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, THOMAS D. MAURIELLO, whose address is 1181 Puerta Del Sol, Ste. 120, San Clemente, CA 92673. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: 9-9-13By: al

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

BY FAX

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**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

I. (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) JEREMY SMITH, Individually and On Behalf of All Others Similarly Situated		DEFENDANTS (Check box if you are representing yourself <input type="checkbox"/>) AMERICAN CAREER COLLEGE, INC.	
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) THOMAS D. MAURIELLO (SBN 144811), MAURIELLO LAW FIRM, APC 1181 Puerta Del Sol, Suite 120, San Clemente, CA 92673 Tel: 949/542-3555 Fax: 949/606-9690		(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) Unknown	

II. BASIS OF JURISDICTION (Place an X in one box only.) <div style="display: flex; justify-content: space-between;"> <div style="width:48%;"> <input type="checkbox"/> 1. U.S. Government Plaintiff <input type="checkbox"/> 2. U.S. Government Defendant </div> <div style="width:48%;"> <input type="checkbox"/> 3. Federal Question (U.S. Government Not a Party) <input checked="" type="checkbox"/> 4. Diversity (Indicate Citizenship of Parties in Item III) </div> </div>		III. CITIZENSHIP OF PRINCIPAL PARTIES —For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant) <table style="width:100%; border: none;"> <tr> <td style="width:33%; border: none;">Citizen of This State</td> <td style="width:10%; border: none; text-align: center;">PTF <input checked="" type="checkbox"/> 1</td> <td style="width:10%; border: none; text-align: center;">DEF <input type="checkbox"/> 1</td> <td style="width:33%; border: none;">Incorporated or Principal Place of Business in this State</td> <td style="width:10%; border: none; text-align: center;">PTF <input type="checkbox"/> 4</td> <td style="width:10%; border: none; text-align: center;">DEF <input checked="" type="checkbox"/> 4</td> </tr> <tr> <td style="border: none;">Citizen of Another State</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 2</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 2</td> <td style="border: none;">Incorporated and Principal Place of Business in Another State</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 5</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td style="border: none;">Citizen or Subject of a Foreign Country</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 3</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 3</td> <td style="border: none;">Foreign Nation</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 6</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		Citizen of This State	PTF <input checked="" type="checkbox"/> 1	DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	PTF <input type="checkbox"/> 4	DEF <input checked="" type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
Citizen of This State	PTF <input checked="" type="checkbox"/> 1	DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	PTF <input type="checkbox"/> 4	DEF <input checked="" type="checkbox"/> 4																
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																

IV. ORIGIN (Place an X in one box only.)					
<input checked="" type="checkbox"/> 1. Original Proceeding	<input type="checkbox"/> 2. Removed from State Court	<input type="checkbox"/> 3. Remanded from Appellate Court	<input type="checkbox"/> 4. Reinstated or Reopened	<input type="checkbox"/> 5. Transferred from Another District (Specify)	<input type="checkbox"/> 6. Multi-District Litigation

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check "Yes" only if demanded in complaint.)
CLASS ACTION under F.R.Cv.P. 23: ☒ Yes ☐ No **MONEY DEMANDED IN COMPLAINT:** \$ according to proof at trial

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
 28 U.S.C. sec. 1332(d)(2) - matter in controversy exceeds \$5 million excluding interest and costs, and this is a class action where class members and Defendant are citizens of different states

VII. NATURE OF SUIT (Place an X in one box only.)					
OTHER STATUTES <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/Etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced & Corrupt Org. <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Admin. Procedures Act/Review of Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes	CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Vet.) <input type="checkbox"/> 153 Recovery of Overpayment of Vet. Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment	REAL PROPERTY CONT. <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions TORTS PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 American with Disabilities-Employment <input type="checkbox"/> 446 American with Disabilities-Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee Conditions of Confinement FORFEITURE/PENALTY <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Ret. Inc. Security Act	PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405 (g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405 (g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609

BY FAX

FOR OFFICE USE ONLY: Case Number: **SACV13-01394 JST (JPRx)**

AFTER COMPLETING PAGE 1 OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED ON PAGE 2.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA

CIVIL COVER SHEET

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ NO ☐ YES

If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ NO ☐ YES

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply)
- ☐ A. Arise from the same or closely related transactions, happenings, or events; or
- ☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
- ☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
- ☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
JEREMY SMITH: Los Angeles County, California	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
AMERICAN CAREER COLLEGE, INC.: Orange County	

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.
NOTE: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Orange County, California	

*Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR SELF-REPRESENTED LITIGANT):

DATE: September 6, 2013

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet).

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405 (g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))